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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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EXAMINER

CHANNAVAJJALA, LAKSHMI SARADA

ART UNIT

PAPER NUMBER

1615

DATE MAILED: 11/20/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/509,315

Applicant(s)

DECOSTER ET AL.

Examiner

Lakshmi S Channavajjala

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 18 October 2002.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 17,18,20,21 and 23-36 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 17,18,20,21 and 23-36 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

### **DETAILED ACTION**

Receipt of request for extension of time, request for continued examination under 37 CFR 1.114 and request for reconsideration, all dated 10-18-02 is acknowledged.

#### ***Status of Claims***

Claims 17, 18, 20, 21 and 23-36 are pending.

#### ***Claim Rejections - 35 USC § 103***

Claims 17, 18, 20, 21 and 23-36 are rejected under 35 U.S.C. 103(a) as being unpatentable over 4,529,586 ('586) in view of WO 94/06403 to Reich et al (WO).

Instant claim 17 is directed to a detergent and conditioning composition comprising, a cosmetically acceptable medium, 4% to 50% washing base, and a conditioning system that comprises at least one cationic polymer and one amine-containing silicone polymer.

Claim 18 requires a surfactant. Claim 20-21 further limit the amounts of washing base. Claims 23-26 further limit the amine-containing silicone. Claims 27-30 limit further the cationic polymer. Claim 31 recite specific cationic polymers i.e., cyclopolymers. Claim 32 recite a quaternary cellulose derivative. Claim 33 recite cationic polysaccharides such as modified guar gums. Claim 34 recites pH 3-10. Claims 35-36 are directed to a process of using instant composition.

'586 teaches hair conditioning composition comprising an amino functional silicone polymer in an aqueous emulsion such as amidomethicone, a cationic surfactant and a cationic polymer, for increasing the combability of the hair and improving the durability of the conditioning effect (see abstract). The amino silicone polymer of '586 reads on the instant

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silicone. See the formula and the description of the variables x and y, in col. 2. '586 teach the amounts of cationic polymers, cationic surfactant and amino silicone polymer, which fall within the range of amounts claimed in the instant invention (col. 2, lines 28-43 col. 6, lines 25-45). '586 also disclose cationic polymers such as quaternium-40, quaternized polyvinyl pyridine, quaternized polyethelenimine & quaternium-19 (col. 3-5). The later is a polymer of hydroxyethyl cellulose reacted with epichlorohydrin and then quaternized with trimethylamine, sold under the name Polymer JR-400, which is also described in the instant specification page 15, lines 16-24.

Examiner notes that instant claim 18 recites surfactants such as anionic, cationic, amphoteric, non-ionic and zwitterionic surfactant as suitable washing bases. Accordingly, The cationic surfactants taught by '586 read on the instant washing base. '586 fail to teach the instant modified guar gums and the claimed amounts of surfactants. However, '586 teaches that the cationic surfactants in an amount effective for increasing the combability of the hair and durability of the conditioning effect. Accordingly, it would have been within the scope for a skilled artisan to optimize the amount of cationic surfactant in the composition of '586 to achieve the desired combability and conditioning property. Further, absent criticality, adjusting the pH of a hair conditioning composition close to that tolerated by hair and scalp would have been within the scope of a skilled artisan because, a skilled artisan would expect the composition to be effective in conditioning the hair as well as not exert an undesirable effect (harmful effect) on the scalp and hair, with which it is contact. '586 fail to teach the instant cyclopolymers.

WO teaches hair-conditioning shampoos containing cationic polymer, anionic surfactant, hair conditioning amino functional silicone polymer and a dispersing agent. WO discloses the same cationic polymer of the instant claim 31 i.e., a copolymer of acrylamide and

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dialkyldiallylammonium salt and in the same amounts (abstract, pages 3-4). Therefore, it would have been obvious for a skilled artisan at the time of the instant invention to use the copolymer of acrylamide and dialkyldiallylammonium salt (of WO), as a cationic polymer, in the hair conditioning composition of '586 because WO suggests that the copolymer imparts better hair conditioning benefits to hair compositions containing conditioning agents and also exhibits compatibility with surfactants present in the composition. Further, WO also teaches dispersing agents such as quaternized derivatives of polysaccharides, including hydroxyethyl cellulose, guar gums cationic guar gum or Polymer JR (page 10, lines 13-16). Instant specification, page 15, lines 16-24 state that JR polymers are quaternary ammoniums of hydroxy ethylcellulose which has reacted with an epoxide substituted by a trimethylammonium group. Accordingly, the JR polymers of WO meet the instant claim 33 requirement of modified guar gums. Accordingly, it would have been obvious for a skilled artisan at the time of the instant invention to add the quaternized guar gum of WO, in the hair product of '586 because WO teaches that the quaternized guar gum acts as a dispersing agent and improves the stability of the emulsion or suspension.

### ***Response to Arguments***

Applicant's arguments filed 10-18-02 have been fully considered but they are not persuasive.

Applicants argue that instant claims require aminosilicone of molecular weight ranging from 11,000-25,000, whereas De Marco teaches 5,000-100,000. Further, applicants argue that unexpected results are obtained with a molecular weight of claimed range as compared to aminosilicone having a molecular weight 50,000. However, molecular weights of aminosilicones

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taught by De Marco, include the claimed range and do not exclude the claimed range.

Accordingly, choosing an aminosilicone having optimum molecular weight, to achieve the art recognized effect i.e., increased combability and improved conditioning effect would have been within the gambit of an ordinary skill in the art. De Marco teaches that the optimum conditioning effect imparted by the surfactant is a function of its concentration. While applicants recite washing base, they do not show any criticality of the amounts of the surfactant (washing base) required for the instant composition. In particular, from the comparative example on pages 31-33, the cationic surfactant is only 0.2% and still the composition imparts good hair conditioning properties, which are also taught by De Marco. Accordingly, it is the examiner's position that optimizing the amount of cationic surfactant in the composition would have been obvious for one of an ordinary skill in the art so as to achieve optimum conditioning effect.

Further, applicants argue that there is no teaching or suggestion to motivate a skilled artisan to combine the references to arrive at the instant invention. Applicants' arguments have been considered but not found persuasive because Reich clearly teaches a hair conditioning shampoo, which is useful to clean human hair while simultaneously conditioning it so as to make more manageable. Reich teaches that incorporating the cationic polymers as conditioning agents in a shampoo provide enhanced hair conditioning benefits than the conventional two-in-one compositions and that the amount of anionic surfactant in the shampoo generally varies from 5% to 40% by weight, which acts as a detergent (page 5). Reich further teaches that addition of aminosilicones to the shampoo and conditioner further enhances the conditioning effect. Therefore, the motivation to use the conditioning composition of De Marco together with a cleansing shampoo comes from the teachings of Reich that conditioning the hair while cleaning

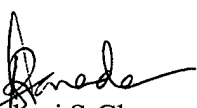
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is useful and enables more manageability to hair. Further, optimizing the amounts of surfactants between 5 to 40% by weight would have been obvious for a skilled artisan because Reich suggests that anionic surfactants are conventionally used in the above range as detergents. Thus, optimizing the amounts of surfactants to achieve the optimum cleansing effect would have been within the scope of a skilled artisan.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Lakshmi S Channavajjala whose telephone number is 703-308-2438. The examiner can normally be reached on 7.30 AM -4.00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thurman K Page can be reached on 703-308-2927. The fax phone numbers for the organization where this application or proceeding is assigned are 703-308-7924 for regular communications and 703-308-7924 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-1235.

  
Lakshmi S Channavajjala  
Examiner  
Art Unit 1615

November 18, 2002